

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii**

REF:OCCL:DH

FILE NO: CDUA HA-3311

Acceptance Date: May 11, 2006
180-Day Exp. Date: November 7, 2006

September 8, 2006

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: After-The-Fact (ATF) Conservation District Use Application (CDUA) HA-3311 for Phyllis Falconer Proposed Single Family Residence (SFR)

APPLICANT: Val Colter for Phyllis Falconer, 12-7242 Kii Nani Street, Pahoa, Hawaii, 96778

LANDOWNER: Phyllis Falconer, P.O. Box 47, Ninole, Hawaii 96773

LOCATION: Ninole, Hawaii

TMK: (3) 3-2-004:044

PARCEL AREA: Approximately 11.182 Acres

AREA OF USE: Approximately 1,067 Square Feet

SUBZONE: General

CONSERVATION DISTRICT USE APPLICATION HA-3030:

On August 24, 2001, the Board of Land and Natural Resources (BLNR) approved CDUA HA-3030 for Mr. G.B. Hajim to establish organic agricultural uses, construction of a work shed, shade house, water catchment system, and improvements and extensions to the existing jeep roads; subject to eighteen terms and conditions. On October 8, 2004, the BLNR approved a time request of eighteen months. Condition # 5 was amended to provide that the permittee had until February 24, 2005 to complete improvements (Exhibits 1 & 2).

ENFORCEMENT CASE HA-06-18:

Enforcement Case HA-06-18 was processed through the HOAPS system because of Mrs. Falconer's extenuating circumstances. An August 29, 2005, a site inspection to the subject parcel revealed that the already constructed work shed structure appeared to be a Single Family Residence (SFR) structure; not what was shown in Exhibit D and E of the staff report (**Exhibit 3**).

Mrs. Falconer's contractor, Ken Miller believed that he got approval from the Department of Land and Natural Resources' (DLNR) to make the changes but in reality had only gotten approval from the County of Hawaii, Planning Department. Thus, Mrs. Falconer did not meet Condition Number 4¹, regarding approved construction and building plan from the department.

On February 2, 2006, Enforcement Case HA-06-18 was forwarded to DOCARE to be processed through HOAPS. The OCCL recommended the following: \$500.00 OCCL fine; \$100.00 OCCL administrative cost; 3) DOCARE Branch administrative cost; and 4) an After-The-Fact (ATF) CDUA is submitted by May 15, 2006. This ATF CDUA is the result of the HOAPS Case.

DESCRIPTION OF AREA/CURRENT USE:

The 11.182-acre subject parcel is located one-mile mauka of Ninole Town on the Hamakua Coast, Island of Hawaii. The subject parcel was used in the past for pasture and other agricultural uses. The subject parcel is situated at the 1,100 to 1,200 foot level on the edge of Kalaeha Stream. Access to the subject parcel is from Stone Road, which joins up to Pina-Kahuku Homestead Road, and finally to Mamalahoa Highway (**Exhibit 4**).

The surrounding area is characterized by privately owned lots of comparable size. Approximately half of the surrounding lots have private homes and half are vacant. Present agricultural uses in the area include lots with grazing cattle and orchards.

The subject parcel soil is classified as inceptisols, one of two soil classifications that make up almost 40% of the area of the State. According to the Flood Insurance Rate Map (FIRM) the parcel is outside the 500-year floodplain. An unimproved jeep road traverses the mauka boundary.

The previous landowner stated they would maintain a buffer area of no less than 100 feet from the stream. The previous flora survey revealed no threatened and/or endangered species. The subject parcel has native ferns, sedge, and trees, and is dominated by pasture grass. The previous fauna survey revealed no rare and/or endangered species would be

¹ Condition # 4 notes, "before proceeding with any work on the structures authorized by the Board the applicant shall submit four copies of the construction plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set for in the permit application. Three copies will be returned to the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies."

affected. The subject parcel did contain evidence of feral ungulates, mongoose, cats, mammals, and black rats. According to the applicant where the SFR is to be located would have no effect on significant historic sites.

PROPOSED USE:

The applicant is asking the BLNR to approve the change in land use from CDUA HA-3030's approved agricultural work shed structure to a Single Family Residence (SFR)(**Exhibit 5**), pursuant to Section 13-5-24, R-8, SINGLE FAMILY RESIDENCES, D-1). The workshed was to be less than 1,000 square feet, and less than 20 feet tall. The SFR would encompass: 1) 413 square feet of enclosed living area; 2) 368 square feet of porch and patio, 3) 286 square foot carport; total 1,067 square feet. The SFR will have 2 bedroom, 2 bathrooms, kitchen, living room, patio, and carport; and consist of a slab on grade single story structure.

The applicant is proposing a private catchment system, as no municipal water system is available. A generator is proposed, as electricity is not available. Police and Fire services are located 9 miles north at Laupahoehoe.

The applicant is requesting the BLNR to re-affirm all land uses requested under CDUA HA-3030 previous: 1) establish organic agricultural uses (4-acre non-commercial fruit orchard, native forest restoration area², 1-acre vegetable garden, 1-acre dryland kalo patch, 4-acre small-scale timber farm); 2) construction of shade house and a 6,000 gallon rainwater catchment system; and 3) improvement and extensions to the existing jeep roads (**Exhibit 6**).

SUMMARY OF COMMENTS:

The subject CDUA was referred for review and comment to the DLNR - Hawaii District Land Office (HDLO), Historic Preservation Division (HPD), Division of Aquatic Resources (DAR), Office of Hawaiian Affairs (OHA), Office of Environmental Quality Control (OEQC), Department of Health (DOH), Hilo Public Library, County of Hawaii - Planning Department. Staff has summarized substantive agency responses as follows:

Hawaii District Land Office

No comment.

Division of Aquatic Resources

DAR notes the proposed project will not significantly impact aquatic resource values provided construction activities are restricted to periods of minimal rainfall and low runoff, and areas denuded of vegetation or susceptible to erosion are appropriately stabilized. Precautions shall be taken to prevent debris, landscaping chemicals, eroded

² Non-native invasive species will be removed from these areas. Native plants and trees will be replanted with particular focus on threatened species. Proposed native plants include 'A'ali'i, 'Akia, Keahi, 'Ohe, Alahe'e, 'Ohi'a, Lowland Koa, Kopiko, Kamani, Kukui, Loulu, Niu, Ilihia, Milo, Olona, Wauke and Olopuu.

soil, petroleum products and other potential contaminants from flowing, blowing, or leaching into Kalaeha Stream.

Applicant Response: We agree to restrict construction activities to periods of minimal rainfall and low run-off, and stabilize areas denuded of vegetation and/or susceptible to erosion. Precautions will be taken to prevent debris, landscaping chemicals, eroded soil, petroleum products, and other contaminants from entering Kalaeha Stream. Most of the construction has already been done, as this is an ATF application, further minimizing potential problems.

Office of Hawaiian Affairs

OHA appreciates the applicant's intent to continue the past landowners native tree restoration project, continued maintenance of existing plantings, and protection to Kalaeha Stream. The applicant specified these intentions in the application; OHA hopes the intentions will become conditions for the CDUA.

Applicant Response: We appreciate OHA's comments and intend to continue native tree restoration, maintenance of existing plantings, and protection of Kalaeha Stream, whether or not these are made conditions of the CDUA.

County of Hawaii's Planning Department

No objections.

ANAYISIS:

Following review and acceptance for processing, the applicant was notified, by letter dated May 10, 2006, that:

1. The proposed use is an identified land use (R-8, SINGLE FAMILY RESIDENCES, D-1) within the Resource Subzone of the Conservation District, according to Section 13-5-24, Hawaii Administrative Rules (HAR); please be advised, however, that this finding does not constitute approval of the proposal;
2. Pursuant to Section 13-5-40(a), HAR, a public hearing will not be required; and
3. In conformance with Chapter 343, (HRS), as amended, and Chapter 11-200, HAR, the proposed project is exempt, pursuant to Section 11-200-8(3), and (6). The project will be submitted to OEQC to be published in the May 23, 2006 issue of the Environmental Notice.

13-5-30 HAWAII ADMINISTRATIVE RULES (HAR) CRITERIA:

The following discussion evaluates the merits of the proposed land use by applying the criteria established in Section 13-5-30, HAR.

1. *The proposed land use is consistent with the purpose of the Conservation District.*

The objective of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare.

Staff is of the opinion that proposed project use will sustain the natural resources of the Conservation District with proper/adequate mitigation measures.

2. *The proposed land use is consistent with the objectives of the Subzone of the land on which the use will occur.*

The objective of the General subzone is to designate open space where specific conservation uses may not be defined, but where urban use would be premature. Lands included in the General subzone include, "lands suitable for farming, flower gardening, operation of nurseries or orchards, grazing; including facilities accessory to these uses when the facilities are compatible with the natural physical environment."

Staff notes that the proposed project will not detract from the scenic and open space resources of the area by cultivating and maintaining endemic and native species on land covered with alien species.

3. *The proposed land use complies with provisions and guidelines contained in Chapter 205A, HRS, entitled "Coastal Zone Management," where applicable.*

Staff notes the County of Hawaii Planning Department, in a letter dated April 11, 2000, verified that the subject parcels are not within the Special Management Area.

4. *The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.*

Staff notes that the proposed project will not have any adverse impact to existing natural resources within the surrounding area, community or region, provided that adequate mitigation measures are implemented.

5. *The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.*

Staff is of the opinion the SFR will not have significant or deleterious effects to the locality, surrounding area, and is appropriate to the physical condition and capabilities of the specific parcel. Staff notes there are many small family homesteads in the surrounding area, and many nearby parcels contain fruit orchards and/or used for grazing purposes.

6. *The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.*

Staff notes the applicant has taken the appropriate steps to mitigate any potential impacts and to maximize and enhance the natural beauty and open space characteristics of the subject parcel.

7. *Subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.*

The proposed project does not involve the subdivision of land.

8. *The proposed land use will not be materially detrimental to the public health, safety and welfare.*

The proposed action will not be materially detrimental to the public health, safety and welfare. Staff concurs with the applicant.

DISCUSSION:

The proposed use is an identified land use within the Resource Subzone of the Conservation District, according to HAR, Section 13-5-24, R-8, SINGLE FAMILY RESIDENCE, D-1, "a single family residence that conforms to design standards as outlined in this chapter."

The applicant is asking the BLNR to approve the change in land use of an agricultural workshed structure to a 1,067 square foot SFR (2 bedroom, 2 bathrooms, kitchen, living room, patio, and carport).

The applicant is also asking the BLNR to re-affirm all other land uses previously requested under CDUA HA-3030: 1) establish organic agricultural uses (4-acre non-commercial fruit orchard, native forest restoration area³, 1-acre vegetable garden, 1-acre dryland kalo patch, 4-acre small-scale timber farm); 2) construction of shade house and a 6,000 gallon rainwater catchment system; and 3) improvement and extensions to the existing jeep roads.

Staff is of the opinion that the proposed project does not conflict with the objectives of the subzone. The proposed project will be built in a rural area, however there are several residences in the vicinity. Staff notes potential impacts have been addressed with mitigation measures. Staff is of the opinion that there is no conflict with public health, safety or welfare by conducting the proposed project. The applicant will preserve the

³ Non-native invasive species will be removed from these areas. Native plants and trees will be replanted with particular focus on threatened species. Proposed native plants include Aalii, Akia, Keahi, Ohe, Alahee, Ohia, Lowland Koa, Kopiko, Kamani, Kukui, Loulu, Niu, Ilihia, Milo, Olona, Wauke and Olopua.

natural beauty and open space characteristics of the subject parcel by conserving indigenous and endemic species.

Staff notes the contractor should provide while finishing the SFR's construction, adequate means to control dust from road areas and during the various phases of construction activities, including by not limited to: 1) planning the different phases of construction, focusing on minimizing the amount of dust-generating materials and activities, centralizing material transfer points and on-site vehicular traffic routes, and locating potentially dusty equipment in areas of the least impact; 2) providing an adequate water source at the site prior to start-up of construction activities; 3) landscaping and rapid covering of bare areas, including slopes, starting from the initial grading phase; 4) controlling of dust from shoulders, project entrances, and access roads; 5) and providing adequate dust control measures during weekends, after hours, and prior to daily start-up of construction activities.

Staff therefore recommends,

RECOMMENDATION:

Based on the preceding analysis, staff recommends the Board of Land and Natural Resources (BLNR) APPROVE ATF CDUA HA-3311 to change the land use of the 1,000 square foot agricultural workshed structure to a SFR, subject to all conditions imposed under CDUA HA-3030 terms and conditions, and subject to the following terms and conditions:

- 1) The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
- 2) The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
- 3) The applicant shall comply with all applicable Department of Health administrative rules;
- 4) Before proceeding with any work on the structures authorized by the Board, the applicant shall submit four copies of the construction plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three copies will be returned to the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
- 5) Any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been

approved by the Department of Land and Natural Resources (Department), and unless otherwise authorized, shall be completed within three years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;

- 6) The applicant shall comply with all applicable Department of Health administrative rules. Particular attention should be paid to Hawaii Administrative Rules (HAR) Section 11-60.1-33, "Fugitive Dust" and to Chapter 11-46, "Community Noise Control; if applicable;"
- 7) The Single Family Dwelling shall not be used for rental or any other commercial purposes unless approved by the Board;
- 8) The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
- 9) In issuing this permit, the Department has relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
- 10) The applicant shall provide documentation (e.g., book and page, or document number) that the permit approval has been placed in recordable form as part of the deed instrument, prior to submission for approval of subsequent construction plans;
- 11) Where any polluted run-off, interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the polluted run-off, interference, nuisance, harm or hazard;
- 12) The applicant acknowledges that the approved work shall not hamper, impede or otherwise limit the exercise of traditional, customary or religious practices in the immediate area, to the extent such practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
- 13) In the event that unrecorded historic remains (i.e., artifacts, or human skeletal remains) are inadvertently uncovered during construction or operations, all work shall cease in the vicinity and the applicant shall immediately contact the State Historic Preservation Division (692-8015);
- 14) The applicant shall consult with the Hamakua Soil and Water Conservation District to ensure that proposed agricultural uses do not conflict with local conservation efforts.

- 15) The applicant understands and agrees that proposed agricultural uses are for non-commercial purposes. In the future, if the applicant intends to conduct commercial agriculture on the subject parcel, the applicant will contact the OCCL and initiate processing of any necessary permits.
- 16) Cleared areas shall be revegetated within thirty (30) days unless otherwise provided for in a plan on file with and approved with the department;
- 17) During construction, appropriate mitigation measures shall be implemented to minimize impacts to the marine environment, off-site roadways, utilities, and public facilities;
- 18) The applicant shall plan to minimize the amount of dust generating materials and activities. Material transfer points and on-site vehicular traffic routes shall be centralized. Dusty equipment shall be located in areas of least impact. Dust control measures shall be provided during weekends, after hours and prior to daily start-up of project activities. Dust from debris being hauled away from the project site shall be controlled. Landscaping and dust control of cleared areas will be initiated promptly;
- 19) The applicant shall notify the Office of Conservation and Coastal Lands in writing prior to the initiation, and upon completion, of the project;
- 20) Other terms and conditions as may be prescribed by the Chairperson; and
- 21) Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Respectfully submitted,



Dawn T. Hegger
Staff Planner

Approved for Submittal:



PETER T. YOUNG, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

GB Hajim
PO Box 373
Hakalau, HI 96710

File Number: HA-3030B

NOTICE OF APPROVAL
Conservation District Use Permit (HA-3030B)
BOARD PERMIT

Dear Mr. Hajim:

This letter is to inform you that your Conservation District Use Application (CDUA) for improvements to parcels TMK (3)3-2-04:43 and (3)3-2-04:44 in the District of North Hilo, Hawaii County has been approved by the Board of Land and Natural Resources on August 24, 2001, subject to the following conditions:

- 1) The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
- 2) The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
- 3) The applicant shall comply with all applicable Department of Health administrative rules;
- 4) Before proceeding with any work on the structures authorized by the Board, the applicant shall submit four copies of the construction plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three copies will be returned to the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
- 5) Any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been approved by the Department of Land and Natural Resources (Department), and unless otherwise authorized, shall be completed within three years of the

EXHIBIT 1

approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;

- 6) All mitigation measures set forth in the application materials and in the final environmental assessment for this project are hereby incorporated as conditions of the permit;
- 7) The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
- 8) In issuing this permit, the Department has relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
- 9) The applicant shall provide documentation (e.g., book and page, or document number) that the permit approval has been placed in recordable form as part of the deed instrument, prior to submission for approval of subsequent construction plans;
- 10) Where any polluted run-off, interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the polluted run-off, interference, nuisance, harm or hazard;
- 11) The applicant acknowledges that the approved work shall not hamper, impede or otherwise limit the exercise of traditional, customary or religious practices in the immediate area, to the extent such practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
- 12) Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact the Historic Preservation Division (587-0013), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary.
- 13) If burials are discovered, a burial treatment plan shall be prepared for burial discoveries encountered during the project. In addition, consultation with the appropriate ethnic groups, the procedures outlined in Chapter 6E-43, shall be followed. It is necessary for the treatment plan to be prepared after consultation with native Hawaiians, such as the Hawaii Island Burial Council and the Office of Hawaiian Affairs.

- 14) The applicant shall consult with the Hamakua Soil and Water Conservation District to ensure that proposed agricultural uses do not conflict with local conservation efforts.
- 15) The applicant understands and agrees that proposed agricultural uses are for non-commercial purposes. In the future, if the applicant intends to conduct commercial agriculture on the subject parcel, the applicant will contact the Land Division and initiate processing of any necessary permits.
- 16) The applicant understands that if an appeal to the Final Environmental Assessment (FEA) is filed within the thirty (30) day appeal period for the FEA, the Board's approval becomes null and void. The FEA was accepted by the DLNR on August 23rd, 2001. Any appeals to the FEA received before September 22nd, 2001 shall render the Board's approval null and void.
- 17) Other terms and conditions as may be prescribed by the Chairperson, and
- 18) Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Please acknowledge receipt of this permit and acceptance of the above conditions by signing in the space provided below and returning a copy to the Land Division within thirty (30) days.

If you have any questions regarding this matter please contact Masa Alkire of our Planning Branch at 587-0385.

Aloha,

Gilbert S. Coloma-Agaran
Chairperson

Receipt acknowledged: _____

Date: _____

Cc: Hawaii Board Member

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LAND

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DAN DAVIDSON
DEPUTY DIRECTOR - LAND

YVONNE Y. IZU
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

File No. HA-3030

OCT 13 2004

REF:OCCL:TM

G.B. Hajim
P.O. Box 373
Hakalau, Hawaii 96710

Dear Mr. Hajim:

This is to inform you that on October 08, 2004, the Board of Land and Natural Resources (BLNR) approved your Conservation District Use Permit (CDUP) Time Extension for for the Establishment of Organic Agricultural Uses, Construction of a Work Shed, Shadehouse and Water Catchment System, and Improvements and Extensions to an Existing Jeep Road located at Waikauamalo, North Hilo, island of Hawaii, TMK (3) 3-2-004:043 & 044 subject to the following conditions:

1. That condition 5 of CDUA HA-3030 is amended to provide that the Permittee has until February 24, 2006 to complete improvements;
2. That all other conditions imposed by the Board under CDUA HA-3030, as amended, shall remain in effect.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided. Please sign two copies. Retain one and return the other within thirty (30) days. We have included a copy of CDUP 3030 for your information. Should you have any questions on any of these conditions, please feel free to contact Tiger Mills at 587-0382.

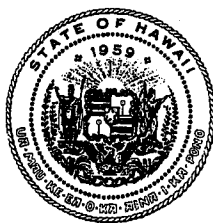
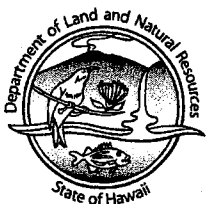
Sincerely,

A handwritten signature in black ink, appearing to read "Samuel J. Lemmo", is written over a large, stylized "S" that serves as a background for the signature.

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

EXHIBIT 2

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS

POST OFFICE BOX 621
HONOLULU HAWAII 96809

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR - LAND

DEAN NAKANO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAOHOLAWE ISLAND RESERVE COMMISSION
LAND

REF:OCCL:DH

ENF: HA-06-18

CERTIFIED MAIL/RETURN RECEIPT

Phyllis Falconer Trust
P.O. Box 47
Ninole, Hawaii 96773

MAR 30 2006

Dear Ms. Falconer,

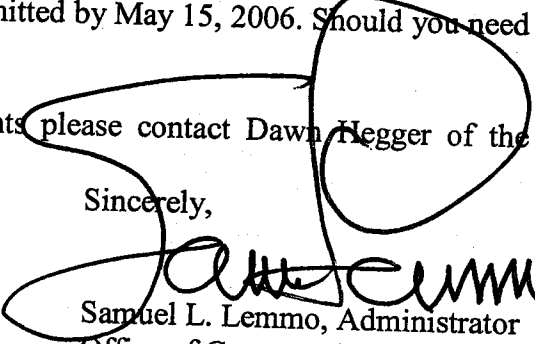
SUBJECT: Alleged, Unauthorized Construction of a Single Family Residence (SFR) in the Conservation District; Subject Parcel Tax Map Key: (3) 3-2-004:044

The Department of Land and Natural Resources' (DLNR), Office of Conservation and Coastal Lands is writing to you regarding Enforcement Case HA-06-18.

The OCCL notes Enforcement Case HA-06-18 was processed through the HOAPS system because of the extenuating circumstances of your case. DOCARE has sent a report to us noting you have paid the HOAPS fine. Staff notes two condition of processing this through the HOAPS system is: 1) that an After-The-Fact (ATF) CDUA is submitted and processed for the changes to the structure; 2) and the ATF CDUA be submitted by May 15, 2006. Should you need more time you will need to contact us.

Should you have any questions or comments please contact Dawn Hegger of the Office of Conservation and Coastal Lands at 587-0380.

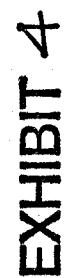
Sincerely,


Samuel L. Lemmo, Administrator
Office of Conservation and Coastal Lands

c: Chairperson
Hawaii Board Member
County of Hawaii Planning Department
DOCARE - Hawaii Branch

[illegible]

EXHIBIT 4



ZONE 3 SECTION 4

ZONE 3, SECTION 3
HILO FOREST RESERVE

POR. KAHUKU, PIHA: WAIKAUMALO & UPPER MAULUA HNSTDs. NORTH HILO, HAWAII. HAWAII

ADVANCE SHEET
RETURN TO CHANGE

Parcel's dropped: 310, 11

THIRD	DIVISION
ZONE	SEC. PLAT
3	2 04

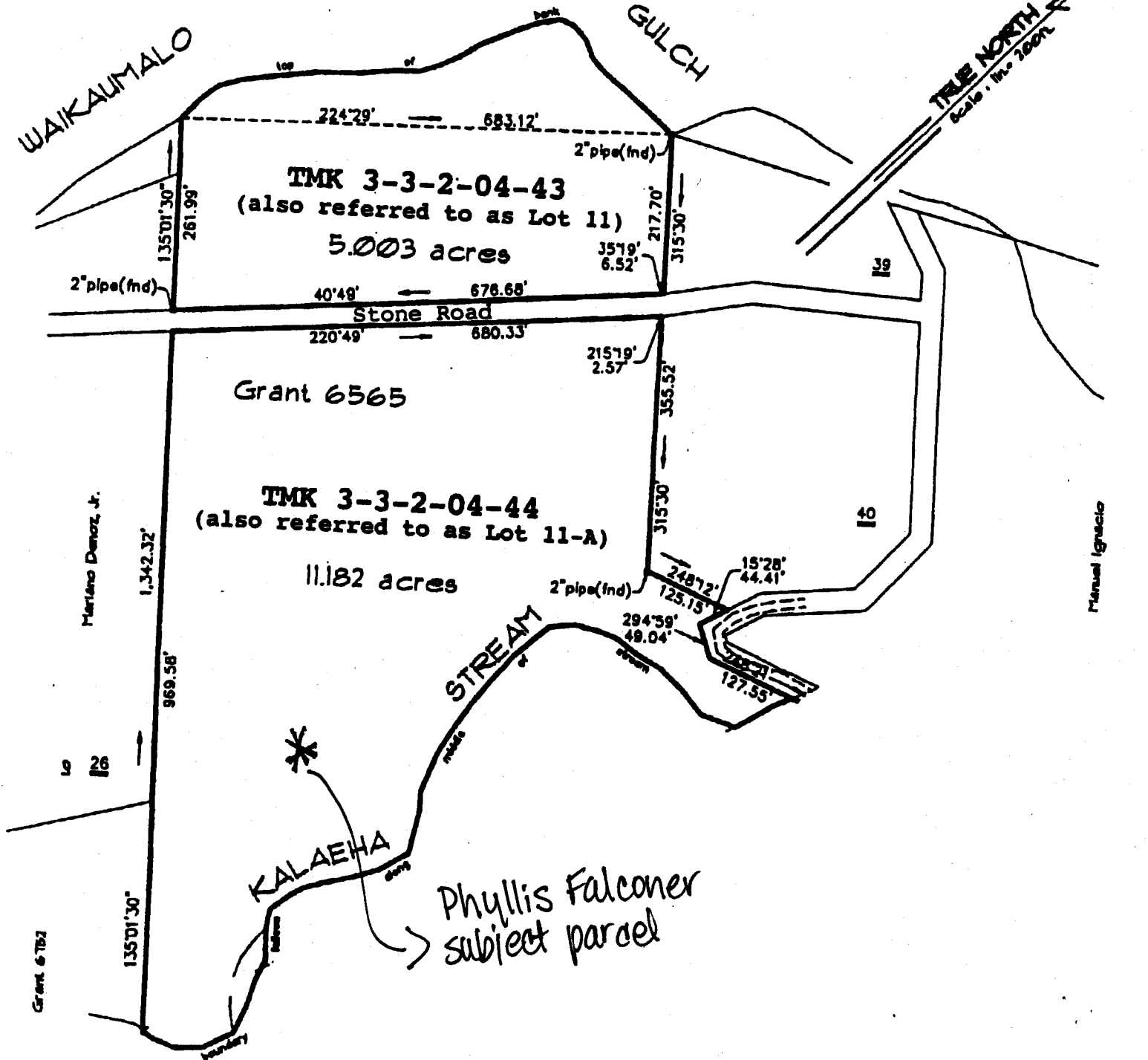
CONTAINING : PARCELS

SCALE : 1 in = 500 ft.

PRINTED

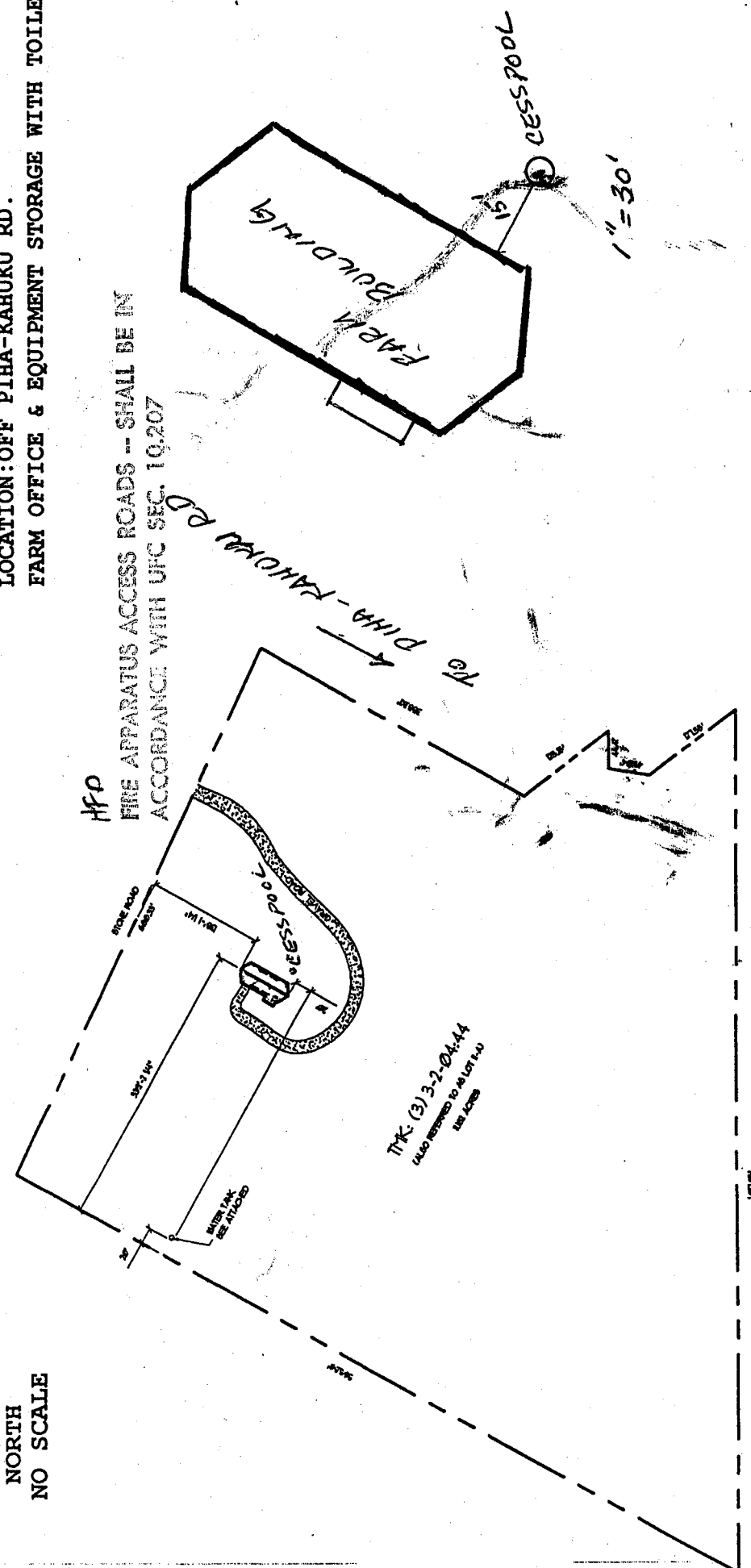
EXHIBIT 4

Subject Parcel Trnk: (3) 3-2-004:044
Phyllis Falconer, Ninole, Hawaii.



FLOW CALCULATIONS
 5 Workers 25 gpd. = 125 gpd
 TOTAL FLOW = 125 GPD

OWNER: G.B. & KAREN HAJIM
 TMK (3) - 3-2-004:044
 LOT SIZE: 11.85 AC.
 LOCATION: OFF PIHA-KAHUKU RD.
 FARM OFFICE & EQUIPMENT STORAGE WITH TOILET



NOTES:

1. Recommended location of the cesspool
2. Final location to be determined in the field
- 3 MINIMUM separation distances
 - Property Line - 9'
 - Building Wall Line - 5'
 - Between Cesspools - 18'
 - Ground Water - 5'
 - Stream - 50' Large Trees - 10'

SITE PLAN FOR CESSPOOL

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY OBSERVATION

Ronald Nickel 7/29/02

RONALD NICKEL P.E.
 P.O. BOX 1243 MT. VIEW, HI. 96771
 PH 968-7456

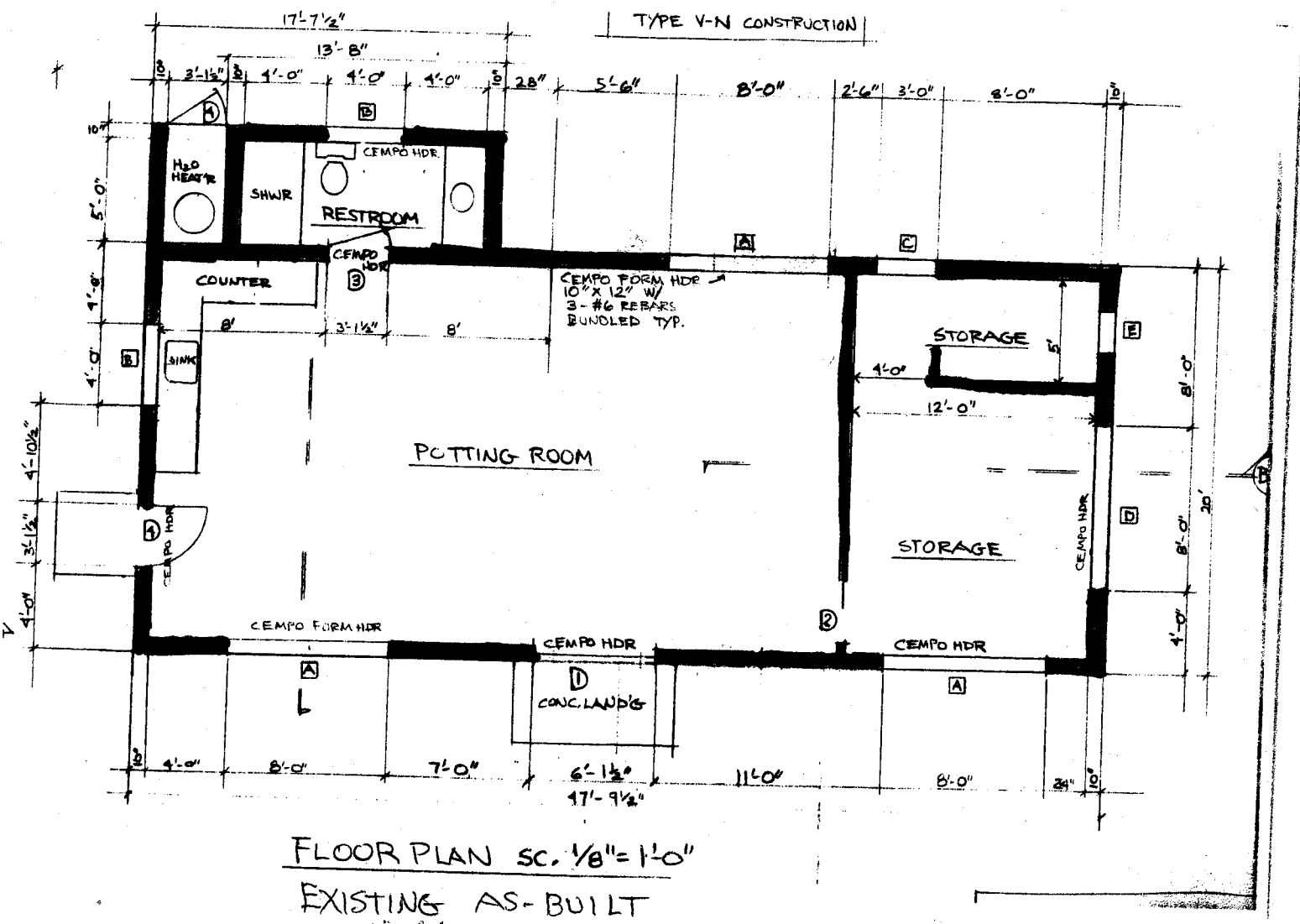
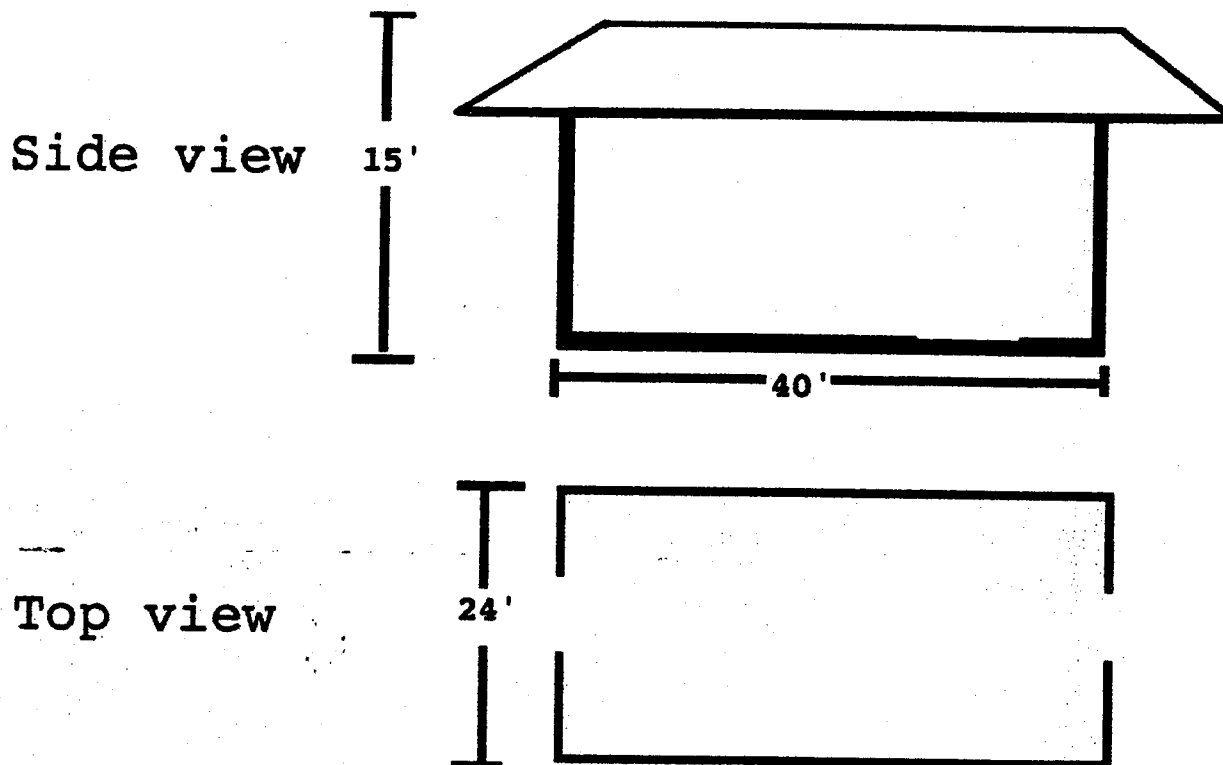


EXHIBIT 5

Approved Workshed for
CDUA HA-3030 Hajim

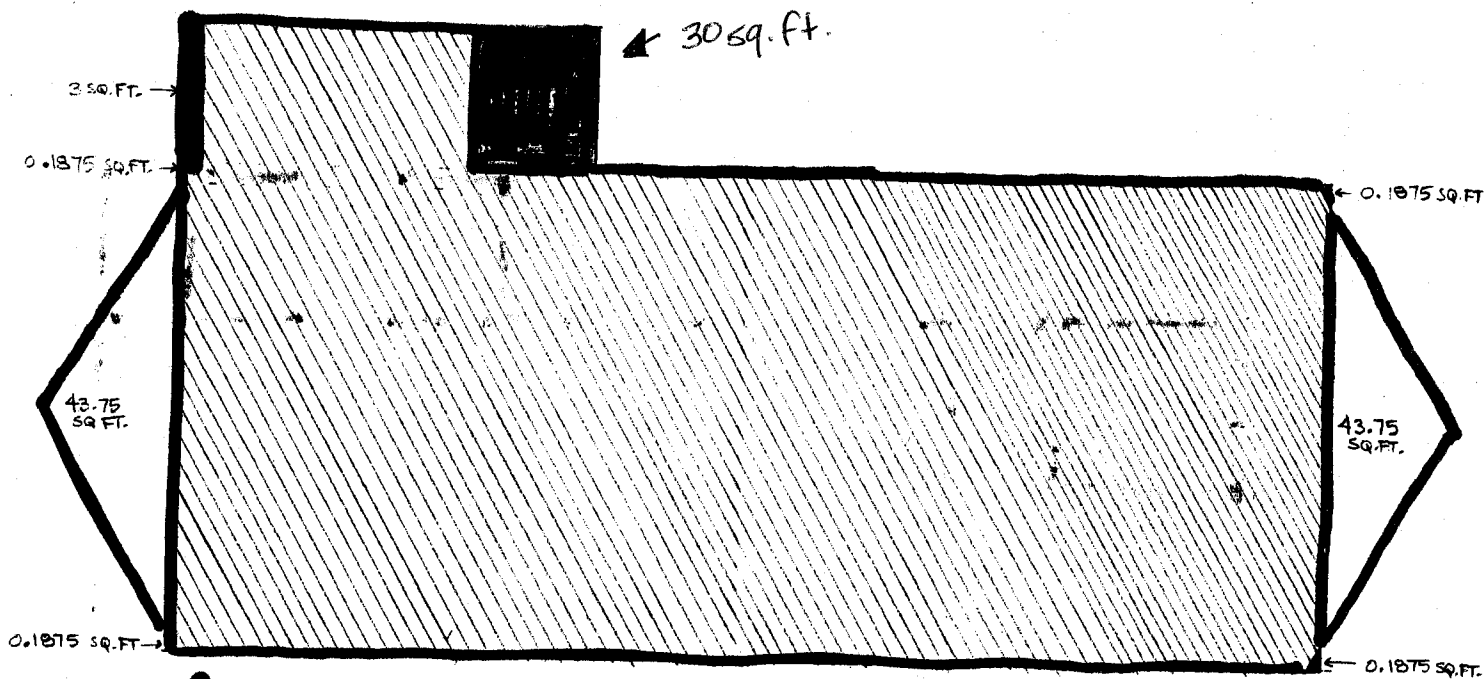
Storage / Work Shed



Storage / Workshed Plan

Approved workshed for
CDUA HA-3030 Hajim

EXHIBIT 5



PHYLIS FALCONER FLOOR PLAN COMPARISON

KEY:



AREA OF ORIGINAL PLAN ONLY, NOT WITHIN BUILDING AS-BUILT
87.5 SQ. FT.

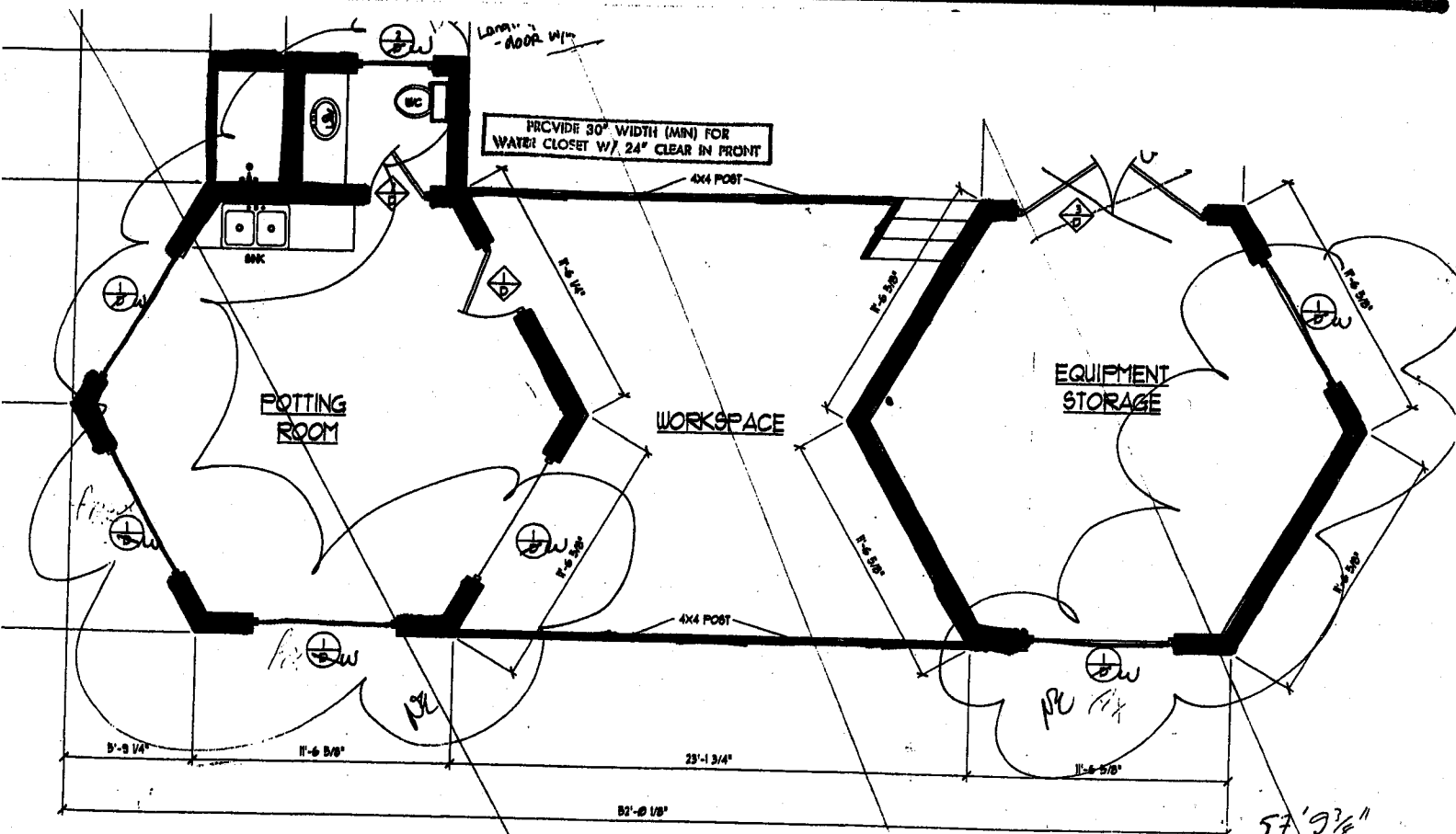


AREA OF BOTH ORIGINAL PLAN & AS-BUILT



AREA OF BUILDING AS-BUILT, NOT WITHIN ORIGINAL
33.75 SQ. FT.

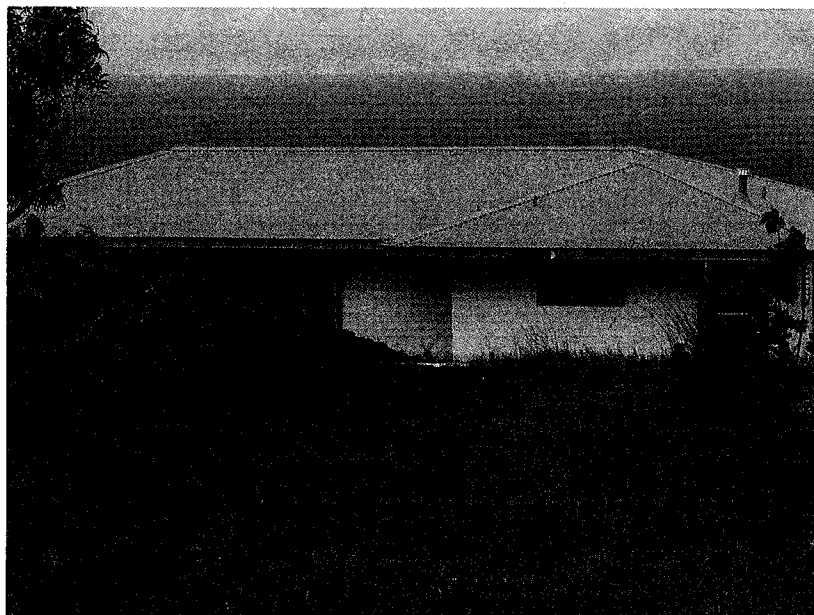
SCALE 1/8" = 1'-0"

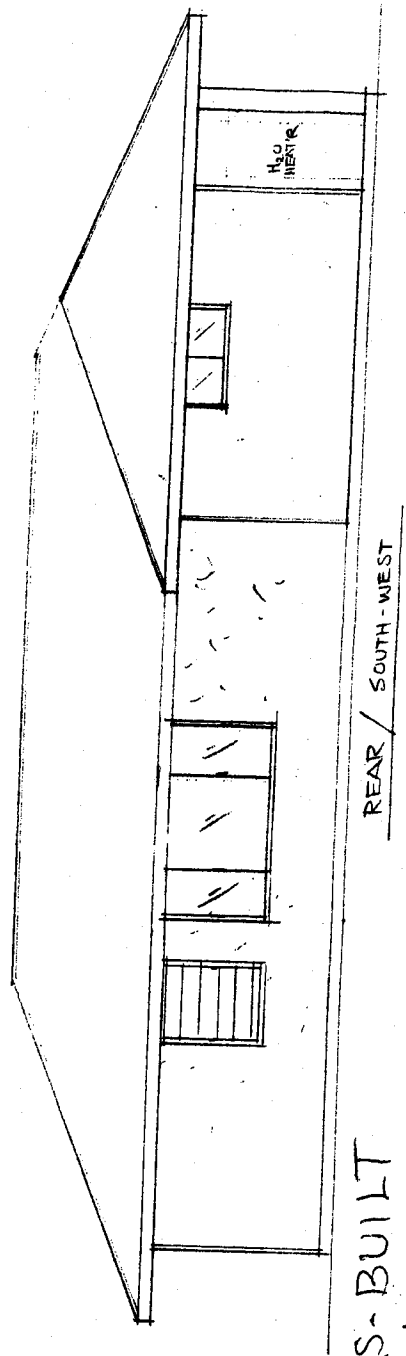
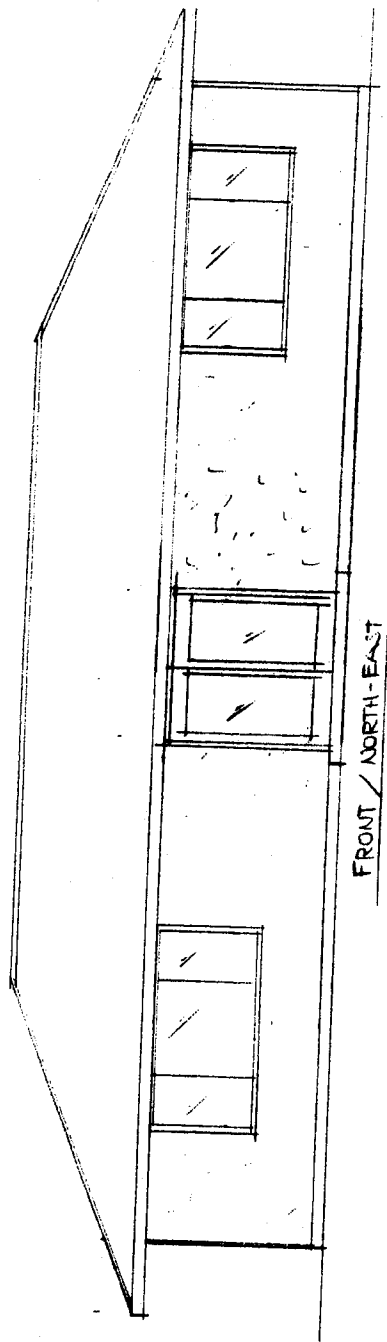
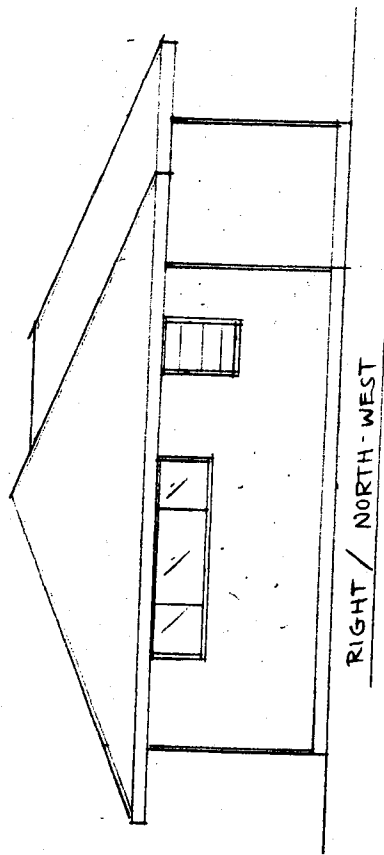
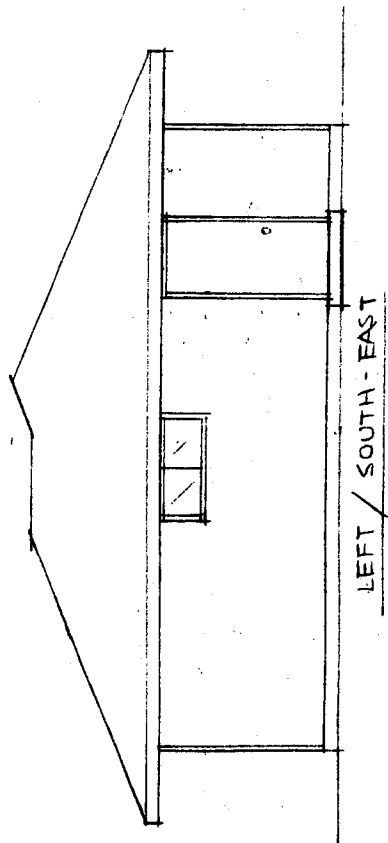


ORIGINAL FARM BUILDING
CDUA HA-3030

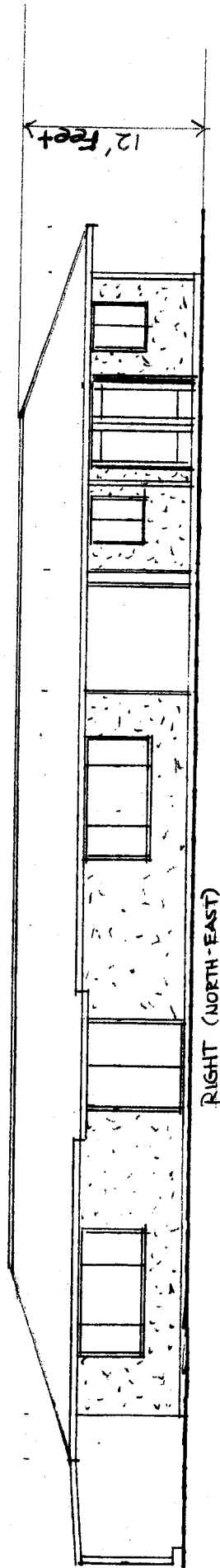
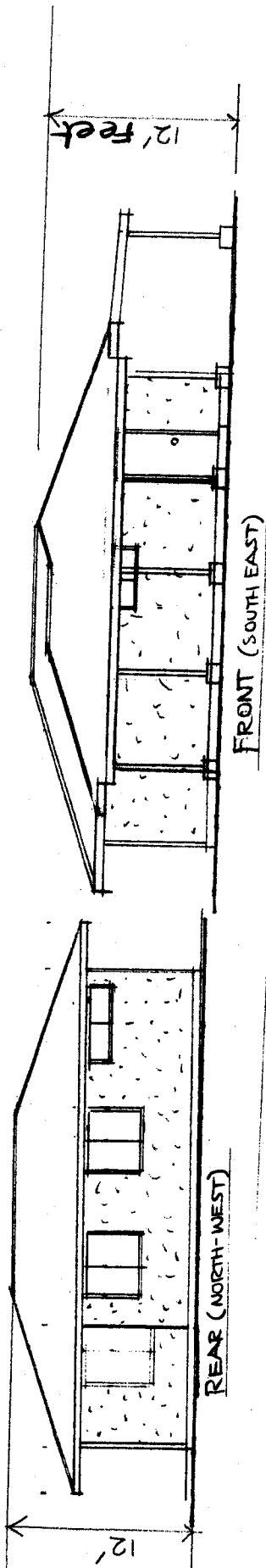
FLOOR PLAN

EXHIBIT 5

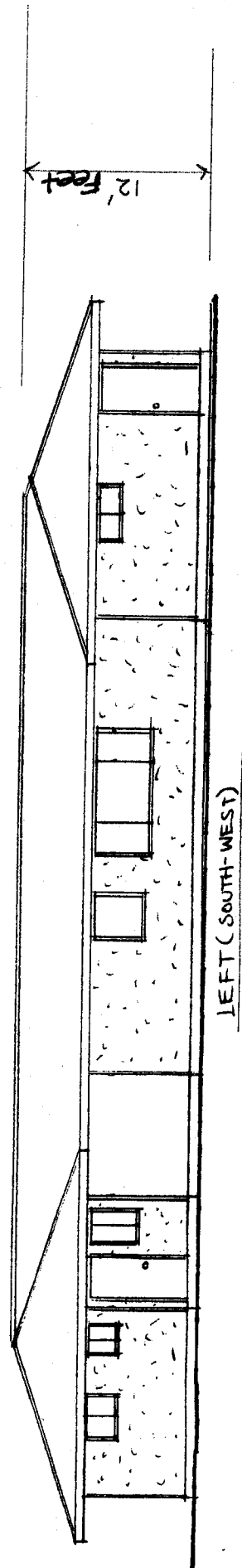




EXISTING AS-BUILT
ELEVATIONS
SC. $\frac{1}{8}'' = 1'-0''$



ELEVATIONS
 PROPOSED
 SC. $\frac{1}{8}'' = 1'-0''$



Proposed SFR
 PHYLLIS FALCONER
 ATF CDDA HA-3311

EXHIBIT 5

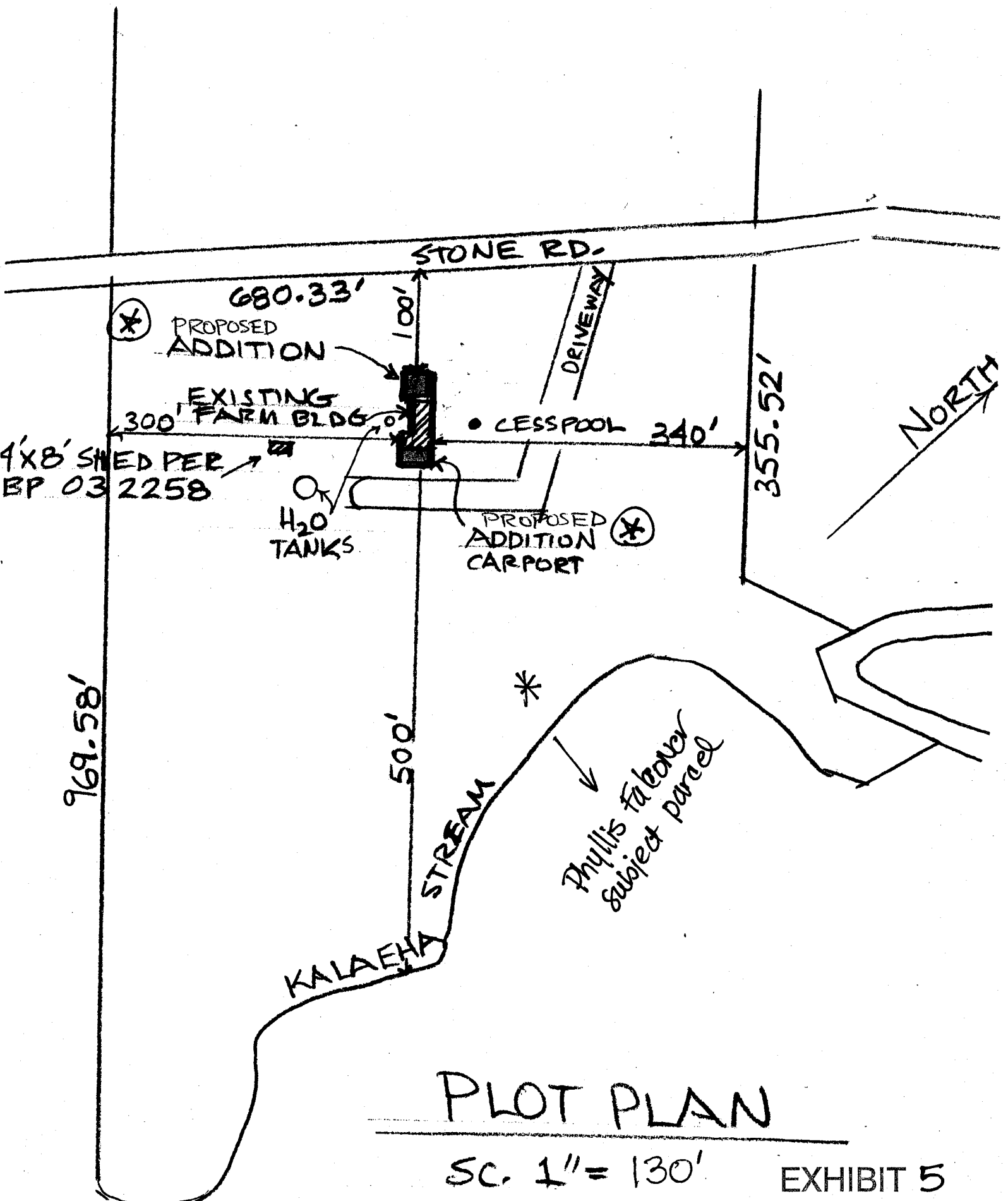




Exhibit D
RESOURCES